IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 212 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME-TAX

Versus

B.K. DIST. CO. OP. MILK PRODU.UNION LTD.

Appearance:

MR AKIL QURESHI for MR MANISH R BHATT for Petitioner No. 1

MR JP SHAH for the RESPONDENT 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 03/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following

question has been referred to this court under the provisions of sec. 256(1) of the Income-tax Act, 1961 by the Income Tax Appellate Tribunal, Ahmedabad Bench 'C' :

"Whether the Tribunal is right in law in coming to the conclusion that the assessee is entitled to 10% of the expenses as a weighted deduction u/s 35C of the I.T. Act?"

2. Learned advocate Shri Akil Qureshi has appeared for the revenue whereas learned advocate Shri J.P. Shah has appeared for the respondent-assessee.

3. At the time of hearing of this reference, it has been submitted by the learned advocates that the question which has been referred to this court, has already been answered by this Court in I.T.R. No. 32/87.

4. Looking to the law laid down in the said judgment, we answer the question referred to us in the negative i.e. in favour of the assessee and against the revenue. Thus, looking to the legal provisions, the assessee shall be entitled to 100% weighted deduction under sec. 35C of the Act.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(hn) (D.A. Mehta, J.)